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3   RECORD OF ORAL HEARING

4   UNITED STATES PATENT AND TRADEMARK OFFICE

5   _____

6   BEFORE THE BOARD OF PATENT APPEALS
7   AND INTERFERENCES
8   _____
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10   Ex parte LUIS M. ORTIZ

11   _____
12

13   Appeal 2009-007155
14   Application 10/620,098
15   Technology Center 2600

16   _____
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18   Oral Hearing Held: January 12, 2010

19   _____
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22   Before KENNETH W. HAIRSTON, JOSEPH F. RUGGIERO and
23   KEVIN F. TURNER, Administrative Patent Judges
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25

26   ON BEHALF OF THE APPELLANT:

27   LUIS M. ORTIZ, ESQ.
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1   The above-entitled matter came on for hearing on Tuesday,

2 January 12, 2010, commencing at 2:03 p.m., at the U.S. Patent and Trademark

3 Office, 600 Dulany Street, East Wing, 9th Floor, Hearing Room A,

4 Alexandria, Virginia, before Jan Jablonsky, Notary Public, in and for the

5 Commonwealth of Virginia.

6   JUDGE HAIRSTON: Counsel, do you have your business card

7 with you?

8   MR. ORTIZ: Absolutely.

9   JUDGE HAIRSTON: I don't want to misspell your name for the

10 record. Thank you. You may begin.

11   MR. ORTIZ: I want to thank the Board for giving me your time

12 today. I'm the Applicant on the current case. This is my law partner and also

13   co-Applicant on some other cases that are part of the family here. I think we

14 have about eight or ten cases filed, and three have issued into patents that are

15 in this space.

16   The one in front of us today has to deal with synchronized

17 cameras in the sports venue. If I can give just a brief introduction into how

18 that all came into being.

19   It really occurred in 2003 when I attended a boxing match with

20 my father, and there were camera men around the boxing arena because it was

21 being broadcast. Sometimes the camera men would get in our way, we could

22 not see the match.

23   Already being one skilled in the art and having applications on

24 file for sports venue applications, it made sense that maybe remote cameras

25 would work in this scenario, once the problem was identified.

1   It didn't really occur as a problem before then because in sports

2   venues and concert arenas, it was a much bigger environment, so

3   synchronized cameras just wouldn't make sense. It wouldn't be common

4   sense or you wouldn't be inspired to do so until you recognize the problem.

5   In a closer environment, such as this one, it really made sense at

6   that point.

7   I think Figures 28 to 31 best illustrate that situation, where in 28

8   you see the boxing arena, you see the master camera on top, cameras

9   deployed around that activity. The intention is to broadcast this as with our

10   other applications and some that have issued, which would be digital data. It

11   would be processed through a server, sent through a wireless network, maybe

12   to a remote viewer such as your high definition television at home or to

13   wireless hand held devices that are also digital within the venue. That could

14   include going through the cellular network, 3G.

15   The issues in front of us are basically whether the claims are

16   obvious under Anderson in view of Paff. We focus on Claims 1, 33, and 65

17   because those are the independent claims.

18   Just to overview Anderson and Paff quickly, Anderson is purely

19   an analog teaching. It talks about combiners, filters, audio, signal

20   conditioning circuits. The interface, as referenced therein, is an analog

21   apparatus. It's not a server.

22   The Examiner does want to call that a server. However, our

23   definition of "server" in our specification starts on page 33 and in various

24   places throughout the specification, it mentions its venue data that the server

25   processes, and can include other things such as real time historical statistics,

1 purchasing and merchandise, concession information, advertisements.

2 JUDGE HAIRSTON: Did you argue this in your Brief, about

3 the server?

4 MR. ORTIZ: The server, yes, sir; I did. It's in the brief that

5 Anderson does not teach a server and a server is what we utilize.

6 What he references as Figure 2 in Anderson, if you look at that,

7 it has audio combiners, signal modulars and signal combiners. Perhaps that

8 would be a card that you married with a server, but it would not be the server.

9 This is all analog signal conditioning and circuitry.

10 JUDGE TURNER: You said on page 33, I'm assuming line 15,

11 it says "For example, a server or other computer system can be integrated

12 with a wireless network."

13 MR. ORTIZ: Right.

14 JUDGE TURNER: That seems like a fairly broad recitation, so

15 it wouldn't have to be a server as I perhaps might use that term of art, it could

16 be any computer system, I would think.

17 MR. ORTIZ: The intention here is that the server be networked

18 with wireless communications, and that's how we show it in Figures 5 through

19 8, if you look at our diagrams. The server serves data through a network.

20 You can have a wireless gateway.

21 The enterprise equipment would be what you would find in a

22 typical wi-fi environment or a cellular network environment where you have

23 wireless gateways, you have servers that process the information, format like

24 an MPEG format. The format is needed for video via server. At the time, that

25 would have been an MPEG standard.

1   JUDGE TURNER: I guess my question would be if it's a

2 computer system, let's say I have Bluetooth and I'm communicating between

3 my computer with the wireless network, it's just a computer, would your

4 claim server, would it read on that as well?

5   MR. ORTIZ: What we claim and what we describe as a server --

6 well, a computer can be used as a server. The server has to process the data

7 for a network. There are different classes of servers. It could be a small

8 desktop kind of server, a regular PC computer can be a server, or it could be a

9 large scale server.

10   I'm sorry. I'm not really understanding. It's a computer

11 nevertheless. Anderson does not teach a computer. It teaches a signal

12 conditioning circuit.

13   JUDGE TURNER: Right. I assume since this is an obviousness

14 type rejection, it doesn't have to necessarily demonstrate a server, but maybe

15 the combination of the references could suggest a server.

16   I guess what I'm trying to tease out is what Appellant's definition

17 of "server" is, if "server" can be any computer system or is it the classical

18 definition of a "server," perhaps where more than one user is served

19 information, which would be sort of the classical definition of a "server."

20   MR. ORTIZ: It would be the latter. It is intended to serve

21 several users as opposed to the security system in Paff, which is really

22 intended to keep it secure and only serve a security operator.

23   JUDGE HAIRSTON: The interface unit in Anderson serves

24 quite a few receivers, if you look at Figure 1.

25   MR. ORTIZ: It does, and it does it as an analog broadcast to

1 receivers that receive an analog. It can't do more than serve analog video. It

2 doesn't do it in the digital format. It doesn't serve statistical information. It

3 doesn't allow some of these other features that our server as we define it and

4 describe it does.

5   Also, neither Paff nor Anderson teach a server.

6   JUDGE TURNER: I'm not sure that in view of the Federal

7 Circuit's decision in LeapFrog that perhaps analog versus digital is your best

8 means of distinction, but I'm not going to disagree with your argument.

9   MR. ORTIZ: I don't want to just totally focus on the server.

10 There are some factual errors and legal errors. The factual errors are on the

11 server, but also that Anderson does not really teach that environment that

12 would give one skilled in the art like me the motivation to incorporate

13 master/slave cameras into an entertainment venue.

14   What we are talking about is two non-analogous arts. We are

15 talking about entertainment video to be broadcast to the masses, first as

16 security video. The only link really is video, but the security application in

17 Paff is only to monitor a premises.

18   JUDGE TURNER: Both have multiple cameras; right?

19   MR. ORTIZ: They both have multiple cameras but there's two

20 different applications, where you are talking about video for security

21 surveillance in a closed environment, not broadcast, not available to the

22 public, versus an application where the intent is for the public to have access

23 to the video.

24   Also, Anderson again doesn't show that environment where you

25 would really want to apply a master slave environment, it wouldn't be

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1   something that would motivate one skilled in the art to do so in the large scale

2   environment.

3   The problem did not surface and it wasn't readily apparent to me

4   in Anderson, it wasn't calling for the need of synchronized cameras, I

5   suppose, until the problem surfaced in 2003, which is three years after our

6   initial filing, when I went to this boxing match with my father.

7   JUDGE TURNER: Why couldn't the motivation simply come

8   out of Paff, saying where you only see one side of a person, you know, having

9   multiple views is actually beneficial, why wouldn't one ordinarily skilled in

10   the art take that teaching and say, you know, that type of benefit could benefit

11   other types of video presentation?

12   MR. ORTIZ: Like in entertainment venues?

13   JUDGE TURNER: Sure.

14   MR. ORTIZ: Well, Paff is dated 1991, I guess. Anderson is

15   1999. It hadn't been done in all that time. After Anderson, it still hadn't been

16   done until 2003. It's not really described anywhere that you would want to

17   have synchronized cameras in an entertainment venue to supply video to the

18   masses.

19   Plus, Anderson couldn't do it without a server anyhow. It's not

20   teaching a server. It's not teaching synchronized cameras. It's not setting up

21   the environment to practice our invention.

22   As far as legal considerations, I do feel Anderson and Paff are

23   non-analogous. There is the video tie, certainly, but they are in two different

24   fields of application. You're talking security versus entertainment.

25   It seems that our claims are kind of used as a road map to

1   combine the two and arrive at the obviousness rejection.

2   I think just a clear definition of what a "server" is, even with

3   Merriam-Webster Dictionary, or what "synchronized" means, those aren't

4   clearly taught by Anderson and "server" isn't taught by Paff or Anderson.

5   Without those things, it doesn't seem that the obviousness burden

6   has been met.

7   JUDGE HAIRSTON: Any other issues?

8   MR. ORTIZ: Let me make sure.

9   (Counsel conferring with co-counsel.)

10   MR. ORTIZ: I think we have covered that, the non-analogous

11   arts, one in security and one in entertainment.

12   I believe that's all. I appreciate the Board's time again.

13   JUDGE HAIRSTON: Thank you, counsel.

14   MR. ORTIZ: Okay. Thank you.

15   Whereupon, at 2:16 p.m., the proceedings were concluded.

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